

Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

BRUCE CORKER d/b/a RANCHO ALOHA;

Plaintiffs,

v.

COSTCO WHOLESALE CORPORATION, a
Washington corporation; et al.

Defendants.

CIVIL ACTION NO. 2:19-cv-00290

JOINT UNOPPOSED MOTION
FOR EXTENSION OF CASE
SCHEDULING DEADLINES AND
TRIAL DATE

Noting Date: September 3, 2021

Plaintiffs Bruce Corker d/b/a Rancho Aloha; Colehour Bondera and Melanie Bondera d/b/a Kanalani Ohana Farm, Robert Smith and Cecelia Smith d/b/a SmithFarms, and SmithFarms LLC request a 69-day extension of the deadline for class certification (in addition to the two-week extension granted by the Court last week), as well an approximately 90-day extension of remaining deadlines in this matter for the purpose of permitting additional time for mediation and settlement negotiations.

I. FACTS

Under the current extended case schedule, motions for class certification must be filed by September 10, 2021. Dkt. 520. In the interim, the majority of Defendants have settled and have been dismissed from this matter. Dkt. 478. Plaintiffs and Defendants L&K and Kroger have agreed

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#5058395 v1 / 72448-001

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1 to a three-month extension of the case schedule, including the class certification deadline, to
 2 facilitate mediation and settlement efforts.

3 Extension of remaining deadlines (except for the deadline to amend pleadings) will
 4 facilitate continued mediation and settlement efforts with the Moving Defendant. Plaintiffs, L&K,
 5 and Kroger further agree that a modified briefing schedule for class certification is appropriate to
 6 accommodate holiday schedules of counsel. No party not already subject to a stay of case deadlines
 7 has indicated any opposition this motion.

8 II. AUTHORITY

9 Modification of a scheduling order is within the broad discretion of the district court.
 10 *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992). The standard the Court
 11 applies when determining whether modification of a case schedule is appropriate is that of “good
 12 cause.” Fed. R. Civ. P. 16(b)(4). In determining whether “good cause” exists, the Court considers
 13 the diligence of the party seeking the amendment and the prejudice to the non-moving party.
 14 *Johnson*, 975 F.2d 604 (9th Cir. 1992).

15 In this case, there is no prejudice to any party in amending the case schedule. Plaintiffs
 16 have agreed with Defendant L&K that a three-month extension of the case schedule will allow
 17 further settlement discussion pending a ruling on L&K’s insurers’ duty to defend the instant
 18 litigation by the Western District of Michigan. Plaintiffs have agreed with Defendant Kroger on
 19 the same extension. On August 13, 23, 25, and 26, Plaintiffs e-mailed Defendants regarding the
 20 instant motion. On August 25, 26, and 30, 2021, Defendants Kroger and L&K stipulated to the
 21 instant motion and case schedule. The remaining Defendants have not stated any opposition to the
 22 instant motion. Good cause exists because the proposed extension will permit L&K to receive a
 23 ruling on parallel litigation regarding its insurer’s duty to defend the instant litigation, which will
 24 have a significant impact on continuing settlement discussions between the Plaintiffs and L&K.
 25 The modified briefing schedule for class certification has been proposed to accommodate holiday
 26 schedules.

There is also good cause to extend the current class certification deadline as to the other remaining defendants. First, judicial efficiency dictates that Plaintiffs file a single class certification as to all of the remaining defendants. Plaintiffs should file their motion against these other defendants at the same time that they file their motion against L&K. Second, there remain significant unresolved issues relating to the discovery provided to date by Defendant Mulvadi Corporation, as illustrated in the just-decided motion for clarification.

III. CONCLUSION

The moving parties request the Case Schedule be amended, extending the deadline for filing a class certification motion by 69 days and the remaining case deadlines (except for the deadline to amend pleadings) by approximately 90 days. A Proposed Order is appended to this Motion.

Respectfully submitted this 3rd day of September 2021.

KARR TUTTLE CAMPBELL

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CERTIFICATE OF SERVICE

I, Jan Likit, affirm and state that I am employed by Karr Tuttle Campbell in King County, in the State of Washington. I am over the age of 18 and not a party to the within action. My business address is: 701 Fifth Avenue, Suite 3300, Seattle, Washington 98104. On this day, I caused to be filed with the Court a true and correct copy of the foregoing document via the Court's electronic filing system, which caused service of the document to all parties registered to receive notifications through CM/ECF.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, to the best of my knowledge.

Dated this 3rd day of September, 2021, at Seattle, Washington.

s/Jan Likit

Jan Likit
Legal Assistant